

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1205

Introduced by Senator Corbett

February 18, 2010

An act to add *and repeal* Title 7.26 (commencing with Section 66720) ~~to~~ of the Government Code, relating to ~~the Bay Area Post-Recovery Authority Act~~ *disaster recovery*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1205, as amended, Corbett. ~~The Bay Area Post-Recovery San Francisco Bay Area Disaster Recovery~~ *San Francisco Bay Area Disaster Recovery Authority Act*.

Existing law authorizes 2 or more public agencies, by agreement, to jointly exercise common powers. Existing law also establishes the San Francisco Bay Restoration Authority to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in the San Francisco Bay.

This bill would establish the *San Francisco Bay Area Post-Recovery Disaster Recovery Authority* to create a long-term regional recovery plan, to be implemented ~~following an earthquake in the bay area~~ *before and after an earthquake or other disaster occurs in the bay area*, by cooperating with various stakeholders in the bay area, including, but not limited to, the cities, counties, special districts, schools, emergency operators, hospitals, members of the public, private businesses, and nongovernmental organizations.

The bill would impose specific duties on the Association of Bay Area Governments, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Title 7.26 (commencing with Section 66720) is
2 added to the Government Code, to read:

3
4 TITLE 7.26. ~~BAY AREA POST-RECOVERY SAN~~
5 *FRANCISCO BAY AREA DISASTER RECOVERY AUTHORITY*

6
7 CHAPTER 1. FINDINGS AND DECLARATIONS

8
9 66720. This title shall be known and may be cited as the Bay
10 Area Post Recovery Authority.

11 66721. The Legislature hereby finds and declares all of the
12 following:

13 (a) The San Francisco Bay area will experience a major
14 earthquake in its future. When this happens, government agencies
15 will be required to immediately activate emergency response plans
16 and scramble to restore order, alleviate human suffering, and
17 protect property. Short-term recovery plans will be required to set
18 up shelter locations, remove debris, and tag buildings. Long-term
19 plans will also be required to address recovery in the region.
20 *manmade or natural disaster such as an earthquake in its future.*

21 ~~(b) Natural disasters, such as earthquakes, affect an entire region.~~
22 ~~Few models exist for long-term regional recovery from a~~
23 ~~catastrophic earthquake.~~

24 *(b) Disasters not properly managed and planned for can easily*
25 *escalate into catastrophies that will have major lasting*
26 *consequences on the region.*

27 *(c) The nine counties surrounding the San Francisco Bay*
28 *constitute a region of vital importance to the national economy*
29 *and future business innovation. The bay area leads the nation in*
30 *innovation, research, and new technology.*

1 (d) *The bay area is crisscrossed by many active faults. Several*
2 *of these faults, including the San Andreas and Hayward faults,*
3 *are capable of causing a major disaster in the region. The United*
4 *States Geological Survey predicts that there is a 67 percent chance*
5 *that a major earthquake will strike the bay area in the next 30*
6 *years. The Hayward fault, which runs through the dense urban*
7 *cities of Fremont, Oakland, and Berkeley, experiences a major*
8 *earthquake approximately every 140 years. The last earthquake*
9 *on this fault was in 1868, making the Hayward fault the most*
10 *dangerous in the bay area today.*

11 (e) *While the bay area has appropriately focused on risk*
12 *mitigation strategies and emergency response preparation, there*
13 *has been little attention given to the lengthy post-90 day, long-term*
14 *recovery period that will follow a major disaster such as an*
15 *earthquake. This is the period that will make or break the region's*
16 *economic future.*

17 (f) *The bay area is making great strides to reduce the impacts*
18 *of a major earthquake, but the scale of the problem is huge and*
19 *critical components of the system are still vulnerable. A great*
20 *amount of work still needs to be done to prepare the region.*
21 *Transportation, water, and housing are key systems that must be*
22 *robust in order to facilitate a speedy recovery for the region.*

23 (g) *Recent disasters have repeatedly shown that the weeks and*
24 *months following a disaster require that all city and county*
25 *departments, special jurisdictions, and the state and federal*
26 *government work together toward disaster recovery. Similarly,*
27 *while hazard mitigation is essential to minimize the damage of*
28 *disasters to communities, having a comprehensive plan for the*
29 *long-term process of recovery is often overlooked and is the key*
30 *to preventing disasters from becoming catastrophes.*

31 (h) *Past disasters clearly show the consequences of not*
32 *preparing for recovery. In 2010, the San Francisco Bay Bridge*
33 *has still not been replaced despite the known hazard since the*
34 *1989 Loma Prieta earthquake, and the City of Atascadero is just*
35 *beginning to replace its city hall that was damaged in the 2003*
36 *San Simeon earthquake because of difficulty it has faced with the*
37 *Federal Emergency Management Agency process. New Orleans*
38 *is still struggling to rebuild its communities more than five years*
39 *after Hurricane Katrina. In Kobe, Japan, where a massive*

1 *earthquake devastated the region in 1995, thousands of people*
2 *still live in temporary housing nearly 15 years after the earthquake.*

3 *(i) Disasters such as earthquakes will affect the entire region,*
4 *not just individual cities and counties. The regional nature of an*
5 *earthquake demands a regional long-term recovery strategy, but*
6 *few models exist from other regions.*

7 ~~(e)~~

8 *(j) With 101 cities, nine counties, and innumerable more than*
9 *400 special districts, the bay area is poorly structured to undertake*
10 *the regional-scale challenge of the long-term recovery phase.*
11 *However, with advanced advance planning and organization, the*
12 *bay area can be prepared for long-term recovery with recovery.*
13 *This would entail having an understanding of the issues that will*
14 *confront the region, the goals to be pursued, and the*
15 *decisionmaking protocols that will need to be followed it will*
16 *follow.*

17 *(k) When the San Francisco Bay area experiences a major*
18 *disaster such as an earthquake in the future, government agencies*
19 *will immediately activate emergency response plans and scramble*
20 *to restore order, alleviate human suffering, and protect property.*
21 *In the days after a disaster, short-term recovery plans will be*
22 *implemented to set up shelter locations, remove debris, and tag*
23 *buildings. But what happens later, in the weeks, months, and years*
24 *after immediate life and safety needs have been addressed, will*
25 *determine whether the region recovers and persists as a vibrant*
26 *community and driver of the nation's prosperity, or whether the*
27 *disaster escalates into a catastrophe and the region suffers*
28 *long-term depopulation with businesses and residents permanently*
29 *relocating to more stable communities.*

30 *(l) A major earthquake on the Hayward fault, for example, is*
31 *predicted to leave 156,000 housing units uninhabitable and*
32 *356,600 people displaced. In contrast to Hurricane Katrina, where*
33 *40 percent of homeowners were insured, less than 10 percent of*
34 *bay area homeowners have earthquake insurance. Because of high*
35 *deductibles, it is anticipated that only 4.4 percent of losses will be*
36 *covered by insurance. The likelihood that these homeowners will*
37 *have the resources to rebuild their homes in a timely manner is*
38 *low and rebuilding will depend on the ability of homeowners to*
39 *attract private investment to their properties. At a time when rental*
40 *vacancy rates are already very low and homeowners are struggling*

1 *to hold on to their properties, there is little incentive or ability for*
2 *uninsured homeowners to invest in the rebuilding of their*
3 *properties.*

4 *(m) Retrofitting homes is an effective method to reducing*
5 *housing losses in a disaster, but relatively few homes have been*
6 *retrofitted and programs and funds to encourage more widespread*
7 *retrofit are scarce. Recovery of the business economy depends on*
8 *the ability of workers to return to work, and workers without homes*
9 *are unlikely to be able to do so.*

10 *(n) A regional long-term recovery plan cannot simply be an*
11 *operations plan for governments to follow. All stakeholders, from*
12 *local governments, lifelines operators, schools, private-sector*
13 *businesses, members of the public, the health and hospital*
14 *community, and nongovernmental organizations, must reach*
15 *consensus on the priorities for long-term disaster recovery,*
16 *including serving vulnerable communities that may have the least*
17 *access to resources, are more reliant upon government services,*
18 *and most susceptible to the impacts of delays in government action*
19 *post disaster.*

20 *(o) Key functional areas of recovery that must be understood*
21 *include lifelines, housing replacement, business recovery,*
22 *government facilities and services, transportation, health and*
23 *education, vulnerable communities, and land use change.*

24 *(p) Public-private partnerships are key to this process. Private*
25 *businesses must be confident that recovery will happen quickly in*
26 *order to continue to invest in the region. The planning process*
27 *must address their needs and concerns. The roles of private*
28 *business in the long-term recovery plan will be identified together*
29 *with local governments.*

30 *(q) The Association of Bay Area Governments (ABAG) is a*
31 *unique regional entity, well suited to lead this effort. ABAG was*
32 *formed as a Council of Governments by the 101 cities and nine*
33 *counties of the bay area to address social, environmental, and*
34 *economic issues that transcend local borders. The mission of ABAG*
35 *is to facilitate and strengthen cooperation and coordination among*
36 *local governments.*

37 *(r) ABAG has a long history of planning for disasters and has*
38 *been a national leader among planning agencies in developing*
39 *and continuing an earthquake and hazards planning program. In*
40 *the past this program has coordinated with all of its member cities*

1 and counties, as well as special districts to develop a Federal
2 Emergency Management Agency approved multijurisdiction local
3 hazard mitigation plan with regional mitigation strategies agreed
4 upon by all the participating jurisdictions.

5 (s) The San Francisco Bay area needs to develop regional
6 mechanisms to generate and allocate additional resources to
7 address threats of natural hazards and to secure opportunities for
8 the improvement of the long-term disaster recovery capacity of
9 the San Francisco Bay area, which will promote sustainable
10 redevelopment and create a more disaster-resistant region.

11 (t) It is in the public interest to create the San Francisco Bay
12 Area Disaster Recovery Authority as a regional entity to generate
13 and allocate resources for development of long-term disaster
14 recovery plans, protocols, and mitigation projects for the San
15 Francisco Bay area. The authority will endeavor to provide its
16 members with shared knowledge and familiarity of the issues
17 necessary to tackle critical tasks of prioritizing recovery activities,
18 sharing resources, and interfacing with a vast array of local
19 entities and stakeholders as well as state and federal agencies.
20 The authority will sponsor and review local actions to improve
21 preparation for recovery, including guidelines for member cities,
22 counties, and agencies to align finance department preparation,
23 building ordinances, emergency housing strategies, mutual aid,
24 and a variety of additional tasks, along with information gathering,
25 plan consolidation, application for resources, and policy
26 discussion.

27 CHAPTER 2. DEFINITIONS

28
29
30 66722. Unless the context otherwise requires, the following
31 definitions govern the construction of this title:

32 (a) ~~“Authority” means the Bay Area Post-Recovery Authority.~~

33 (b) ~~“Bay area” means a city or county, including the City and~~
34 ~~County of San Francisco, or a special district within the~~
35 ~~geographical boundary that touches the San Francisco Bay.~~

36 (a) “ABAG” means the Association of Bay Area Governments.

37 (b) “Administrative committee” means the Bay Area Disaster
38 Recovery Administrative Committee convened by the governing
39 board of the San Francisco Bay Area Disaster Recovery Authority
40 pursuant to Section 66724.5.

1 (c) “Authority” means the San Francisco Bay Area Disaster
2 Recovery Authority established as a regional entity pursuant to
3 Section 66723.

4 (d) “Board” means the governing board of the San Francisco
5 Bay Area Disaster Recovery Authority.

6 (e) “Elected official” means an elected member of a city council
7 or an elected member of a county board of supervisors.

8 (f) “Member” means a person appointed as a member of the
9 governing board of the San Francisco Bay Area Disaster Recovery
10 Authority.

11 (g) “San Francisco Bay area” or “bay area” means the area
12 that includes the Counties of Alameda, Contra Costa, Marin, Napa,
13 San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

14
15 ~~CHAPTER 3. BAY AREA POST RECOVERY AUTHORITY~~

16
17 *CHAPTER 3. SAN FRANCISCO BAY AREA DISASTER RECOVERY*
18 *AUTHORITY*

19
20 ~~66723. (a) The Bay Area Post-Recovery Authority is hereby~~
21 ~~established as a regional entity with jurisdiction extending~~
22 ~~throughout the San Francisco Bay area.~~

23 ~~(b) The authority’s purpose is to create a long-term regional~~
24 ~~recovery plan, to be implemented following an earthquake in the~~
25 ~~bay area, by cooperating with various stakeholders in the bay area,~~
26 ~~including, but not limited to, the cities, counties, special districts,~~
27 ~~schools, emergency operators, hospitals, members of the public,~~
28 ~~private businesses, and nongovernmental organizations.~~

29 66723. (a) *The San Francisco Bay Area Disaster Recovery*
30 *Authority is hereby established as a regional entity with jurisdiction*
31 *extending throughout the San Francisco Bay area.*

32 (b) *The authority shall create a long-term regional recovery*
33 *plan, to be implemented before and after an earthquake or other*
34 *disaster occurs in the bay area, by cooperating with various*
35 *stakeholders in the bay area, including, but not limited to, the*
36 *cities, counties, special districts, school districts, emergency*
37 *operators, hospitals, members of the public, private business, and*
38 *nongovernmental organizations.*

1 (c) *The jurisdiction of the authority is not subject to the*
2 *Cortese-Knox-Hertzberg Local Government Reorganization Act*
3 *of 2000 (Division 3 (commencing with Section 56000) of Title 5).*
4 66723.5. *It is the intent of the Legislature that the authority*
5 *complement existing efforts by cities, counties, districts, and other*
6 *local, regional, and state entities, related to addressing the goals*
7 *described in this title.*

8
9 CHAPTER 4. GOVERNING BODY

10
11 66724. (a) *The authority shall be governed by a board*
12 *composed of voting members, as follows:*

13 (1) *All members of the ABAG Regional Planning Committee.*

14 (2) *ABAG shall appoint one member representing each of the*
15 *following:*

16 (A) *Not less than four members representing lifeline*
17 *infrastructure districts such as water and wastewater, power and*
18 *energy, telecommunications, and transit.*

19 (B) *A school district or county board of education.*

20 (C) *A nonprofit service delivery agency.*

21 (D) *A member of the Bay Area Super-Urban Area Security*
22 *Initiative.*

23 (E) *Not less than four members representing private sector*
24 *business, economics, and planning organizations.*

25 (b) *Each member shall serve at the pleasure of the appointing*
26 *authority.*

27 (c) *A vacancy shall be filled by the appointing agency within*
28 *90 days from the date on which the vacancy occurs.*

29 66724.1. *The members of the board are subject to the Political*
30 *Reform Act of 1974 (Title 9 (commencing with Section 81000)).*

31 66724.2. *Each member shall exercise his or her independent*
32 *judgment on behalf of the interests of the residents, the property*
33 *owners, and the public as a whole in furthering the intent and*
34 *purposes of this title.*

35 66724.3. *The board shall elect from its own members a chair*
36 *and a vice chair who shall preside in the absence of the chair.*

37 66724.4. (a) *The time and place of the first meeting of the*
38 *board shall be at a time and place within the San Francisco Bay*
39 *area fixed by the chair of the board.*

1 ***(b) After the first meeting described in subdivision (a), the board***
2 ***shall hold meetings at times and places determined by the board.***

3 ***(c) Meetings of the board are subject to the Ralph M. Brown***
4 ***Act (Chapter 9 (commencing with Section 54950) of Part 1 of***
5 ***Division 2 of Title 5).***

6 ***66724.5. (a) Not later than six months after the date of the***
7 ***board's first meeting described in subdivision (a) of Section***
8 ***66723.4, the board shall convene a Bay Area Disaster Recovery***
9 ***Administrative Committee to assist and advise the board in***
10 ***carrying out the functions of the board. The administrative***
11 ***committee shall meet on a regular basis.***

12 ***(b) The membership of the administrative committee shall be***
13 ***determined by the authority based upon criteria that provide a***
14 ***broad representation of community and agency interests and***
15 ***geographical diversity within the authority's jurisdiction over the***
16 ***long-term disaster recovery in the San Francisco Bay area. The***
17 ***membership of the administrative committee shall be appointed***
18 ***by the authority.***

19 ***66724.6. (a) The board is the legislative body of the authority***
20 ***and, consistent with this title, shall establish policies for the***
21 ***operation of the authority.***

22 ***(b) The board may act either by ordinance or resolution in order***
23 ***to regulate the authority and to implement this title.***

24 ***(c) A majority of the voting members of the board shall***
25 ***constitute a quorum for the purpose of transacting any business***
26 ***of the authority. A recorded majority vote of the total voting***
27 ***membership of the board is required on each action.***

28
29 **CHAPTER 5. POWERS AND DUTIES**
30

31 **Article 1. General Provisions**
32

33 ***66725. The authority may do all of the following:***

34 ***(a) Apply for and receive grants from federal and state agencies.***

35 ***(b) Solicit and accept gifts, fees, grants, and allocations from***
36 ***public and private entities.***

37 ***(c) Receive and manage a dedicated revenue source.***

38 ***(d) Deposit or invest moneys of the authority in banks or***
39 ***financial institutions in the state in accordance with state law.***

1 (e) Sue and be sued, except as otherwise provided by law, in all
2 actions and proceedings, in all courts and tribunals of competent
3 jurisdiction.

4 (f) Engage counsel and other professional services.

5 (g) Enter into and perform all necessary contracts.

6 (h) Enter into joint powers agreements pursuant to the Joint
7 Exercise of Powers Act (Chapter 5 (commencing with Section
8 6500) of Division 7 of Title 1).

9 (i) Use interim or temporary staff provided by appropriate state
10 agencies or the Association of Bay Area Governments. A person
11 who performs duties as interim or temporary staff shall not be
12 considered an employee of the authority.

13 66725.1. The authority shall not acquire or own real property.

14 66725.2. All records prepared, owned, used, or retained by
15 the authority are public records for purposes of the California
16 Public Records Act (Chapter 3.5 (commencing with Section 6250)
17 of Division 7 of Title 1 of the Government Code).

18 Article 2. Grant Program

19
20
21 66725.5. (a) The authority may raise funds and award grants
22 to public and private entities, including, but not limited to, owners
23 or operators of public and private property within the San
24 Francisco Bay area, for the purposes of maintaining and enhancing
25 the region's resiliency following a disaster by reducing the
26 potential loss of life, property damage, or environmental
27 degradation, and accelerating economic recovery from those
28 disasters.

29 (b) In reviewing and assessing projects, the authority shall
30 solicit input from the administrative committee convened pursuant
31 to Section 66724.5. The authority shall give priority to projects
32 that do either of the following:

33 (1) To the greatest extent possible, address the highest priority
34 mitigation strategies identified in the most recent
35 multijurisdictional Local Hazard Mitigation Plan led by ABAG
36 and adopted by the Federal Emergency Management Agency.

37 (2) Address additional needs identified in the recovery plan.

38 (c) Grants awarded pursuant to subdivision (a) may be used to
39 support all phases of planning, construction, monitoring, operation,

1 *and maintenance for projects that are eligible pursuant to*
2 *subdivision (b).*

3
4 CHAPTER 6. FINANCIAL PROVISIONS
5

6 66726. (a) *The board shall provide for regular audits of the*
7 *authority's accounts and records and shall maintain accounting*
8 *records and shall report accounting transactions in accordance*
9 *with generally accepted accounting principles adopted by the*
10 *Government Accounting Standards Board of the Financial*
11 *Accounting Foundation for both public reporting purposes and*
12 *for reporting of activities to the Controller.*

13 (b) *The board shall provide for annual financial reports. The*
14 *board shall make copies of the annual financial reports available*
15 *to the public.*

16 66726.5. *The authority shall be funded through gifts, donations,*
17 *grants, state or local bonds, assessments, other appropriate funding*
18 *sources, and other types of financial assistance from public and*
19 *private sources.*

20
21 CHAPTER 7. REPEAL
22

23 66727. *This title shall remain in effect only until January 1,*
24 *2030, and as of that date is repealed, unless a later enacted statute,*
25 *that is enacted before January 1, 2030, deletes or extends that*
26 *date.*

27 SEC. 2. *No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution because*
29 *a local agency or school district has the authority to levy service*
30 *charges, fees, or assessments sufficient to pay for the program or*
31 *level of service mandated by this act, within the meaning of Section*
32 *17556 of the Government Code.*